



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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E. L. SORENSEN, JR.
Executive Director

June 4, 1999

Dear Mr. :

This is in response to your letter of April 6, 1999 addressed to David Gau, Chief, Policy Planning and Standards Division, requesting our opinion regarding the qualification of an aircraft of historical significance, which is owned by a trust, for the property tax exemption set forth in Revenue and Taxation Code Section 220.5. As you know, that letter was forwarded to the Legal Division for reply. We conclude that an aircraft under the ownership you describe would be owned by "an individual owner" for purposes of Section 220.5, and thus eligible for exemption.

You report that an aircraft of historical significance has been transferred by the owner of the aircraft to his Grantor Revocable Trust of which he is the trustee and the beneficial owner. Prior to the transfer, the aircraft received the benefits of the above exemption from personal property tax. The San Luis Obispo County Assessor's Office indicated that the issue is not clear if the revocable trust would be an "individual owner" as required by the Revenue and Taxation Code, and you ask our opinion. It is our view that the former owner of the aircraft, as the beneficial owner of the trust, is "an individual owner" as contemplated by Section 220.5.

Subdivision (a) of Section 220.5 provides that "Aircraft of historical significance shall be exempt from taxation." Subdivision (b) of that Section provides:

(b) The exemption provided in subdivision (a) shall only apply if all of the following conditions are satisfied:

(1) The assessee is an individual owner who does not hold the aircraft primarily for purposes of sale.

* * *

We apparently have not previously formally expressed our views on this trust ownership issue as it relates to aircraft of historical significance. However, we have stated that "An individual owner [as referenced in Section 220.5] is a live person, not a legal entity such as a corporation or partnership." Letter To Assessors No. 87/67.

We have similarly concluded that Revenue and Taxation Code Section 218 requires that property owned by a separate legal entity does not qualify for the homeowners' exemption. Letter To Assessors No. 82/50. Thus, our previous opinions concerning the homeowners' exemption may be of assistance in responding to your request.

From the inception of the homeowners' exemption, we have been of the opinion that an equitable owner of real property may qualify as an owner for purposes of the exemption. Annotation 505.0025 C 9/21/78. See also *Sherman v. Quinn* (1948) 31 Cal.2d 661 (a vendee in possession under an installment contract is an owner for purposes of veterans' property tax exemption).

We have further always been of the view that an occupant of a residence who is a present beneficiary of a trust which owns the residence may apply and qualify for the homeowners' exemption. See Letter to Assessors No. 82/50. Even earlier, in 1970 we addressed the situation in which a husband and wife had transferred their home into a trust. The husband had been appointed trustee and the wife was the trust beneficiary. Both husband and wife occupied the structure as their permanent residence. We said the wife is eligible to claim the homeowners' exemption because she was the beneficial owner of the structure. On the other hand, we said the husband was not eligible to claim the exemption for himself, but he could file the exemption claim as trustee for the benefit of the wife. Annotation No. 505.0120, C 10/23/70.

It is our view that a similar result should occur with respect to the exemption of aircraft of historical significance set forth in Section 220.5. Thus, in the circumstance you present, we believe the former owner of the aircraft, who transferred the aircraft to his revocable trust, is "an individual owner" of the aircraft for purposes of Section 220.5, by virtue of being the beneficial owner of the trust.

The views expressed in this letter are advisory only; they represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity.

Sincerely,

/s/ Daniel G. Nauman

Daniel G. Nauman
Tax Counsel

DGN:jd

h:property/precednt/genexemp/1999/07dgn

cc:

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Mr. David Gau, MIC:64
Mr. William Jackson, MIC:62

Mr.

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Ms. Jennifer Willis, MIC:73